

Remarks

Claim objections

Claim 53 has been corrected in line with the Examiner's suggestions.

Claim rejections 35 USC § 103

Claims 1, 34 and 50 have each been amended to clarify that:

- (i) the communications are telephony communications,
- (ii) the endpoint is itself a telephony device,
- (iii) the test packets are transmitted while a telephony session is in progress; and
- (iv) the dynamic indication of network performance is provided on the telephony device while the telephony session is in progress.

The term "telephony" is now used in place of "telecommunications". It was noted that the Examiner considered the latter term to include data communications such as the transmission of test traffic data in Schuster. "Telephony", in contrast, is used to denote communications involving sound (i.e. audio and combined audiovisual telephony communications). No new issues are raised, given the previous argument made by the applicants.

It is respectfully submitted that Schuster's transmission of test data does not read onto this wording, and that Schuster contains no teaching or suggestion of the transmission of test data during a telephony session.

McKee was relied on for its disclosure of a station with a graphical display that provides a graphical indication of network performance data. However, McKee does not suggest making network performance measurements during a telephony session, and nor does it suggest providing a dynamic indication of network performance at the output of a telephony device involved in a telephony session.

Accordingly the person skilled in the art would not derive from Schuster and McKee either alone or in combination, any suggestion of conducting network testing

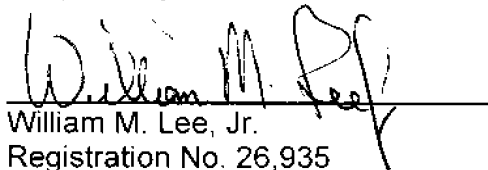
measurements while a telephony session is in progress and providing the results as a dynamic indication presented on the output of a user's telephony device while the session is in progress.

Claims 2-11, 27-31, 33, 35, 36, 44-47 and 51-53, are each dependent on one of the independent claims 1, 34 and 50. Accordingly the arguments presented herein for patentability of the independent claims also apply to each such dependent claim.

In view of the amendments and arguments made herein, the applicants respectfully request the examiner withdraw the rejections, and allow the application.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line.

William M. Lee, Jr.
Registration No. 26,935
Barnes & Thornburg
P.O. Box 2786
Chicago, Illinois 60690-2786
(312) 214-4800
(312) 759-5646 (fax)